

REMARKS

The Office Action of June 28, 2010, has been carefully amended. The claims now pending in the application, Claims 40-51, are presented in terms which obviate priority-based objections, drawing objections, new matter objections, and miscellaneous other objections. It is also submitted that 35 U.S.C. § 112, par. 1, rejections (see numbered paragraphs 7 and 8 of the Office Action) should be withdrawn based on the clear meaning of the descriptions in paragraphs [0050], [0079] – [0081], and [00102] of the specification and drawing Figures 27-29.

Regarding the 35 U.S.C. § 103(a) rejections of Claims 40-50, in considering the applicant's combination catheter and insertion assembly as claimed to date, six (6) prior art references were treated by the Examiner. Those references, in order of their asserted significance, are the Nelson, Jr., Andersen et al. '074, Andersen '474, Ferguson et al., Pozzo, and Bengmark patent documents.

Nelson, Jr. discloses an intestinal catheter comprising a single catheter tube with four lumens for (1) enteral feeding, (2) gastric suction, (3) suction venting, and (4) bolus inflation. It does not comprise two separate tubes containing two lumens in a first (outer) tube and a single lumen in a second (inner) tube. It does not contain a bolus separating the two tubes, much less a bolus having a side port communicating with a gastric cavity in a patient. In effect, it is an animal which is entirely different from the applicant's catheter assembly.

Andersen et al. '074 discloses an enteral feeding catheter wherein nutrients or medicaments are delivered directly to a patient's stomach or duodenum through a nasogastrintestinal tube. The catheter does not utilize a jejunal feeding tube or feeding port. It does comprise a dual lumen tube containing a feeding lumen and a gastric relief lumen, the feeding lumen connected at a mid-port bolus to a single feeding tube which is long enough to extend through the duodenum into the jejunum, the mid-port bolus also containing a gastric relief port connection to a relief lumen.

Andersen '474 discloses a catheter bolus comprising a side-port. In all other respects, the structure and functions described are virtually irrelevant to the applicant's claimed applications.

Ferguson et al. discloses a “balloon” catheter utilized primarily for vascular insertion. The catheter contains a multiple lumen tube containing an infusion lumen, a guide wire lumen and a stylet lumen. The catheter is not designed for, nor suited for, naso-enteral feeding through aligned feeding lumens connected by a mid-port bolus. The catheter tube contains multiple lumens useable for independently threading a guide wire, and/or multiple stylets. The distal end of the jejuna infusion lumen does not have a boliss tip, much less a bolus tip with a side port in it!

Pozzo discloses an enteral feeding catheter and stylet assembly. The catheter tube contains a single lumen tube and a bolus tip at the distal end of the single lumen tube. A braided wire stylet has a plastic sleeve extending partially over it. The stylet extends through the single lumen tube to aid in inserting the catheter to the stomach or duodenum of the patient. The assembly does not contain a dual lumen tube, much less a dual lumen tube coupled to a single lumen tube by a mid-port bolus. The assembly does not contain a dual stylet stiffener arrangement much less a stiffener wire which extends through the feeding lumens of the catheter.

Bengmark discloses a single lumen with a coil at its tip. No dual lumen tube connected by a mid-port bolus to a single lumen is found..

The Examiner relies greatly on the decision in St. Regis Paper Co. v. Bemis Co., 193 U.S.P.Q. 8 (7th Cir. 1977), for the proposition that the mere duplication of essential working parts of a device involves only routine skill in an art. Applicant submits, however, that St. Regis is not in point for two important reasons. First, the decision was rendered in the context of the “synergism” test on which the decision turned, and that decision was later overturned by the U.S. Supreme Court. Second, taken individually or collectively, the references not only do not suggest applicant’s claimed inventions, applicant submits that they actually rely on the hindsight of the applicant’s teachings.

Respectfully submitted,

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